

2240

2013-2014 Regular Sessions

I N   A S S E M B L Y

(PREFILED)

January 9, 2013

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Introduced by M. of A. PAULIN, DINOWITZ, SCARBOROUGH, ROSENTHAL, COOK, LAVINE, ZEBROWSKI, ABBATE, CUSICK, ENGLEBRIGHT, GALEF, GIBSON, GUNTHER, JAFFEE, MAGNARELLI, MARKEY, MILLMAN, MOYA, ROBERTS, WEISENBERG -- Multi-Sponsored by -- M. of A. BOYLAND, COLTON, JACOBS, THIELE -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, the criminal procedure law, the social services law, the mental hygiene law, the correction law, the vehicle and traffic law, the public health law, the real property actions and proceedings law and the real property law, in relation to prostitution offenses; and to repeal section 230.07 of the penal law relating thereto

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1.     Short title. This act shall be known and may be cited as  
2     the "trafficking victims protection and justice act".  
3     S 2. Section 60.13 of the penal law, as added by chapter 7 of the laws  
4     of 2007, is amended to read as follows:  
5     S 60.13 Authorized dispositions; felony sex offenses.  
6     When a person is to be sentenced upon a conviction for any felony  
7     defined in article one hundred thirty of this chapter, including a sexu-  
8     ally motivated felony, or patronizing a [prostitute] PERSON FOR PROSTI-  
9     TUTION in the first degree as defined in section 230.06 of this chapter,  
10    AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION IN THE THIRD DEGREE AS  
11    DEFINED IN SECTION 230.11 OF THIS CHAPTER, AGGRAVATED PATRONIZING A  
12    MINOR FOR PROSTITUTION IN THE SECOND DEGREE AS DEFINED IN SECTION 230.12  
13    OF THIS CHAPTER, AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION IN THE  
14    FIRST DEGREE AS DEFINED IN SECTION 230.13 OF THIS CHAPTER, incest in the  
15    second degree as defined in section 255.26 of this chapter, or incest in  
16    the first degree as defined in section 255.27 of this chapter, or a  
17    felony attempt or conspiracy to commit any of these crimes, the court

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

LBD03210-01-3

1 must sentence the defendant in accordance with the provisions of section  
2 70.80 of this title.

3 S 3. Paragraph (a) of subdivision 1 of section 70.02 of the penal law,  
4 as amended by chapter 320 of the laws of 2006, is amended to read as  
5 follows:

6 (a) Class B violent felony offenses: an attempt to commit the class  
7 A-I felonies of murder in the second degree as defined in section  
8 125.25, kidnapping in the first degree as defined in section 135.25, and  
9 arson in the first degree as defined in section 150.20; manslaughter in  
10 the first degree as defined in section 125.20, aggravated manslaughter  
11 in the first degree as defined in section 125.22, rape in the first  
12 degree as defined in section 130.35, criminal sexual act in the first  
13 degree as defined in section 130.50, aggravated sexual abuse in the  
14 first degree as defined in section 130.70, course of sexual conduct  
15 against a child in the first degree as defined in section 130.75;  
16 assault in the first degree as defined in section 120.10, kidnapping in  
17 the second degree as defined in section 135.20, burglary in the first  
18 degree as defined in section 140.30, arson in the second degree as  
19 defined in section 150.15, robbery in the first degree as defined in  
20 section 160.15, SEX TRAFFICKING AS DEFINED IN SECTION 230.34, incest in  
21 the first degree as defined in section 255.27, criminal possession of a  
22 weapon in the first degree as defined in section 265.04, criminal use of  
23 a firearm in the first degree as defined in section 265.09, criminal  
24 sale of a firearm in the first degree as defined in section 265.13,  
25 aggravated assault upon a police officer or a peace officer as defined  
26 in section 120.11, gang assault in the first degree as defined in  
27 section 120.07, intimidating a victim or witness in the first degree as  
28 defined in section 215.17, hindering prosecution of terrorism in the  
29 first degree as defined in section 490.35, criminal possession of a  
30 chemical weapon or biological weapon in the second degree as defined in  
31 section 490.40, and criminal use of a chemical weapon or biological  
32 weapon in the third degree as defined in section 490.47.

33 S 4. Paragraph (a) of subdivision 1 of section 70.80 of the penal law,  
34 as added by chapter 7 of the laws of 2007, is amended to read as  
35 follows:

36 (a) For the purposes of this section, a "felony sex offense" means a  
37 conviction of any felony defined in article one hundred thirty of this  
38 chapter, including a sexually motivated felony, or patronizing a [pros-  
39 titute] PERSON FOR PROSTITUTION in the first degree as defined in  
40 section 230.06 of this chapter, PATRONIZING A PERSON FOR PROSTITUTION IN  
41 THE SECOND DEGREE AS DEFINED IN SECTION 230.05 OF THIS CHAPTER, AGGRA-  
42 VATED PATRONIZING A MINOR FOR PROSTITUTION IN THE THIRD DEGREE AS  
43 DEFINED IN SECTION 230.11 OF THIS CHAPTER, AGGRAVATED PATRONIZING A  
44 MINOR FOR PROSTITUTION IN THE SECOND DEGREE AS DEFINED IN SECTION 230.12  
45 OF THIS CHAPTER, AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION IN THE  
46 FIRST DEGREE AS DEFINED IN SECTION 230.13 OF THIS CHAPTER, incest in the  
47 second degree as defined in section 255.26 of this chapter, or incest in  
48 the first degree as defined in section 255.27 of this chapter, or a  
49 felony attempt or conspiracy to commit any of the above.

50 S 5. The closing paragraph of section 135.35 of the penal law, as  
51 added by chapter 74 of the laws of 2007, is amended to read as follows:

52 Labor trafficking is a class [D] B felony.

53 S 6. The penal law is amended by adding a new section 230.01 to read  
54 as follows:

55 S 230.01 PROSTITUTION; DEFENSE.

1 IN ANY PROSECUTION UNDER SECTION 230.00 OR SUBDIVISION THREE OF  
2 SECTION 240.37 OF THIS PART, IT IS AN AFFIRMATIVE DEFENSE THAT THE  
3 DEFENDANT'S PARTICIPATION IN THE OFFENSE WAS A RESULT OF HAVING BEEN A  
4 VICTIM OF SEX TRAFFICKING UNDER SECTION 230.34 OF THIS ARTICLE OR A  
5 VICTIM OF TRAFFICKING IN PERSONS UNDER THE TRAFFICKING VICTIMS  
6 PROTECTION ACT (UNITED STATES CODE, TITLE 22, CHAPTER 78).

7 S 7. The section heading and subdivision 1 of section 230.02 of the  
8 penal law, as amended by chapter 627 of the laws of 1978, are amended to  
9 read as follows:

10 Patronizing a [prostitute] PERSON FOR PROSTITUTION; definitions.

11 1. A person patronizes a [prostitute] PERSON FOR PROSTITUTION when:

12 (a) Pursuant to a prior understanding, he OR SHE pays a fee to another  
13 person as compensation for such person or a third person having engaged  
14 in sexual conduct with him OR HER; or

15 (b) He OR SHE pays or agrees to pay a fee to another person pursuant  
16 to an understanding that in return therefor such person or a third  
17 person will engage in sexual conduct with him OR HER; or

18 (c) He OR SHE solicits or requests another person to engage in sexual  
19 conduct with him OR HER in return for a fee.

20 S 8. Subdivision 2 of section 230.03 of the penal law, as added by  
21 chapter 191 of the laws of 2011, is amended to read as follows:

22 2. For the purposes of this section, SECTION 230.08 and section 230.19  
23 of this article, "school zone" means (a) in or on or within any build-  
24 ing, structure, athletic playing field, playground or land contained  
25 within the real property boundary line of a public or private elementa-  
26 ry, parochial, intermediate, junior high, vocational, or high school, or

27 (b) any public sidewalk, street, parking lot, park, playground or  
28 private land, located immediately adjacent to the boundary line of such  
29 school.

30 S 9. Section 230.07 of the penal law is REPEALED and a new section  
31 230.08 is added to read as follows:

32 S 230.08 PATRONIZING A PERSON FOR PROSTITUTION IN A SCHOOL ZONE.

33 1. A PERSON IS GUILTY OF PATRONIZING A PERSON FOR PROSTITUTION IN A  
34 SCHOOL ZONE WHEN HE OR SHE COMMITS THE CRIME OF PATRONIZING A PERSON FOR  
35 PROSTITUTION IN VIOLATION OF SECTION 230.04, 230.05, OR 230.06 OF THIS  
36 ARTICLE IN A SCHOOL ZONE DURING THE HOURS THAT SCHOOL IS IN SESSION.

37 2. FOR PURPOSES OF THIS SECTION, "SCHOOL ZONE" SHALL MEAN "SCHOOL  
38 ZONE" AS DEFINED IN SUBDIVISION TWO OF SECTION 230.03 OF THIS ARTICLE.

39 PATRONIZING A PERSON FOR PROSTITUTION IN A SCHOOL ZONE IS A CLASS E  
40 FELONY.

41 S 10. Section 230.04 of the penal law, as amended by chapter 74 of the  
42 laws of 2007, is amended to read as follows:

43 S 230.04 Patronizing a [prostitute] PERSON FOR PROSTITUTION in the third  
44 degree.

45 A person is guilty of patronizing a [prostitute] PERSON FOR PROSTITU-  
46 TION in the third degree when he or she patronizes a [prostitute] PERSON  
47 FOR PROSTITUTION.

48 Patronizing a [prostitute] PERSON FOR PROSTITUTION in the third degree  
49 is a class A misdemeanor.

50 S 11. Section 230.05 of the penal law, as added by chapter 627 of the  
51 laws of 1978, is amended to read as follows:

52 S 230.05 Patronizing a [prostitute] PERSON FOR PROSTITUTION in the  
53 second degree.

54 A person is guilty of patronizing a [prostitute] PERSON FOR PROSTITU-  
55 TION in the second degree when, being [over] eighteen years [of age] OLD  
56 OR MORE, he OR SHE patronizes a [prostitute] PERSON FOR PROSTITUTION and

1 the person patronized is less than [fourteen] FIFTEEN years [of age]  
2 OLD.

3 Patronizing a [prostitute] PERSON FOR PROSTITUTION in the second  
4 degree is a class E felony.

5 S 12. Section 230.06 of the penal law, as added by chapter 627 of the  
6 laws of 1978, is amended to read as follows:

7 S 230.06 Patronizing a [prostitute] PERSON FOR PROSTITUTION in the first  
8 degree.

9 A person is guilty of patronizing a [prostitute] PERSON FOR PROSTITU-  
10 TION in the first degree when [he]:

11 1. HE OR SHE patronizes a [prostitute] PERSON FOR PROSTITUTION and the  
12 person patronized is less than eleven years [of age] OLD; OR

13 2. BEING EIGHTEEN YEARS OLD OR MORE, HE OR SHE PATRONIZES A PERSON FOR  
14 PROSTITUTION AND THE PERSON PATRONIZED IS LESS THAN THIRTEEN YEARS OLD.

15 Patronizing a [prostitute] PERSON FOR PROSTITUTION in the first degree  
16 is a class D felony.

17 S 13. The section heading and the opening paragraph of section 230.10  
18 of the penal law are amended to read as follows:

19 Prostitution and patronizing a [prostitute] PERSON FOR PROSTITUTION; no  
20 defense.

21 In any prosecution for prostitution or patronizing a [prostitute]  
22 PERSON FOR PROSTITUTION, the sex of the two parties or prospective  
23 parties to the sexual conduct engaged in, contemplated or solicited is  
24 immaterial, and it is no defense that:

25 S 14. The penal law is amended by adding three new sections 230.11,  
26 230.12 and 230.13 to read as follows:

27 S 230.11 AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION IN THE THIRD  
28 DEGREE.

29 A PERSON IS GUILTY OF AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION  
30 IN THE THIRD DEGREE WHEN, BEING TWENTY-ONE YEARS OLD OR MORE, HE OR SHE  
31 PATRONIZES A PERSON FOR PROSTITUTION AND THE PERSON PATRONIZED IS LESS  
32 THAN EIGHTEEN YEARS OLD AND THE PERSON GUILTY OF PATRONIZING ENGAGES IN  
33 SEXUAL INTERCOURSE, ORAL SEXUAL CONDUCT, ANAL SEXUAL CONDUCT, OR AGGRA-  
34 VATED SEXUAL CONDUCT.

35 AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION IN THE THIRD DEGREE IS  
36 A CLASS E FELONY.

37 S 230.12 AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION IN THE SECOND  
38 DEGREE.

39 A PERSON IS GUILTY OF AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION  
40 IN THE SECOND DEGREE WHEN, BEING EIGHTEEN YEARS OLD OR MORE, HE OR SHE  
41 PATRONIZES A PERSON FOR PROSTITUTION AND THE PERSON PATRONIZED IS LESS  
42 THAN FIFTEEN YEARS OLD AND THE PERSON GUILTY OF PATRONIZING ENGAGES IN  
43 SEXUAL INTERCOURSE, ORAL SEXUAL CONDUCT, ANAL SEXUAL CONDUCT, OR AGGRA-  
44 VATED SEXUAL CONDUCT.

45 AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION IN THE SECOND DEGREE  
46 IS A CLASS D FELONY.

47 S 230.13 AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION IN THE FIRST  
48 DEGREE.

49 A PERSON IS GUILTY OF AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION  
50 IN THE FIRST DEGREE WHEN HE OR SHE PATRONIZES A PERSON FOR PROSTITUTION  
51 AND THE PERSON PATRONIZED IS LESS THAN ELEVEN YEARS OLD, BEING EIGHTEEN  
52 YEARS OLD OR MORE, HE OR SHE PATRONIZES A PERSON FOR PROSTITUTION AND  
53 THE PERSON PATRONIZED IS LESS THAN THIRTEEN YEARS OLD, AND THE PERSON  
54 GUILTY OF PATRONIZING ENGAGES IN SEXUAL INTERCOURSE, ORAL SEXUAL  
55 CONDUCT, ANAL SEXUAL CONDUCT, OR AGGRAVATED SEXUAL CONDUCT.

1 AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION IN THE FIRST DEGREE IS  
2 A CLASS B FELONY.

3 S 15. Subdivisions 1 and 2 of section 230.15 of the penal law are  
4 amended to read as follows:

5 1. "Advance prostitution." A person "advances prostitution" when,  
6 acting other than as a [prostitute] PERSON IN PROSTITUTION or as a  
7 patron thereof, he OR SHE knowingly causes or aids a person to commit or  
8 engage in prostitution, procures or solicits patrons for prostitution,  
9 provides persons or premises for prostitution purposes, operates or  
10 assists in the operation of a house of prostitution or a prostitution  
11 enterprise, or engages in any other conduct designed to institute, aid  
12 or facilitate an act or enterprise of prostitution.

13 2. "Profit from prostitution." A person "profits from prostitution"  
14 when, acting other than as a [prostitute] PERSON IN PROSTITUTION receiv-  
15 ing compensation for personally rendered prostitution services, he OR  
16 SHE accepts or receives money or other property pursuant to an agreement  
17 or understanding with any person whereby he OR SHE participates or is to  
18 participate in the proceeds of prostitution activity.

19 S 16. Subdivision 1 of section 230.19 of the penal law, as added by  
20 chapter 191 of the laws of 2011, is amended to read as follows:

21 1. A person is guilty of promoting prostitution in a school zone when,  
22 being nineteen years [of age] OLD or [older] MORE, he or she knowingly  
23 advances or profits from prostitution [that he or she knows or reason-  
24 ably should know is or will be committed in violation of section 230.03  
25 of this article] in a school zone during the hours that school is in  
26 session.

27 S 17. The opening paragraph and subdivisions 1 and 2 of section 230.25  
28 of the penal law, the opening paragraph and subdivision 2 as amended by  
29 chapter 627 of the laws of 1978 and subdivision 1 as amended by chapter  
30 74 of the laws of 2007, are amended to read as follows:

31 A person is guilty of promoting prostitution in the third degree when  
32 he OR SHE knowingly:

33 1. Advances or profits from prostitution by managing, supervising,  
34 controlling or owning, either alone or in association with others, a  
35 house of prostitution or a prostitution business or enterprise involving  
36 prostitution activity by two or more [prostitutes] PERSONS IN PROSTITU-  
37 TION, or a business that sells travel-related services knowing that such  
38 services include or are intended to facilitate travel for the purpose of  
39 patronizing a [prostitute] PERSON FOR PROSTITUTION, including to a  
40 foreign jurisdiction and regardless of the legality of prostitution in  
41 said foreign jurisdiction; or

42 2. PROFITS FROM PROSTITUTION BY ENGAGING, EITHER ALONE OR IN ASSOCI-  
43 ATION WITH OTHERS, IN A BUSINESS OR ENTERPRISE CONSISTING OF THE TRANS-  
44 PORTING OF A PERSON OR PERSONS FOR THE PURPOSES OF PROSTITUTION; OR

45 3. Advances or profits from prostitution of a person less than nine-  
46 teen years old.

47 S 18. The opening paragraph of section 230.30 of the penal law, as  
48 amended by chapter 627 of the laws of 1978, is amended to read as  
49 follows:

50 A person is guilty of promoting prostitution in the second degree when  
51 he OR SHE knowingly:

52 S 19. The first undesignated paragraph of section 230.32 of the penal  
53 law, as added by chapter 627 of the laws of 1978, is amended to read as  
54 follows:

1 A person is guilty of promoting prostitution in the first degree when  
2 he OR SHE knowingly advances or profits from prostitution of a person  
3 less than [eleven] THIRTEEN years old.

4 S 20. Section 230.33 of the penal law, as added by chapter 450 of the  
5 laws of 2005, is amended to read as follows:

6 S 230.33 Compelling prostitution.

7 A person is guilty of compelling prostitution when, being twenty-one  
8 years [of age or older] OLD OR MORE, he or she knowingly advances pros-  
9 titution by compelling a person less than [sixteen] EIGHTEEN years old,  
10 by force or intimidation, to engage in prostitution.

11 Compelling prostitution is a class B felony.

12 S 21. Subdivision 1 and paragraph (h) of subdivision 5 of section  
13 230.34 of the penal law, as added by chapter 74 of the laws of 2007, are  
14 amended and a new subdivision 6 is added to read as follows:

15 1. unlawfully providing to a person who is patronized, with intent to  
16 impair said person's judgment: (a) a narcotic drug or a narcotic prepa-  
17 ration; (b) MARIJUANA OR concentrated cannabis as defined in paragraph  
18 (a) of subdivision four of section thirty-three hundred two of the  
19 public health law; (c) methadone; [or] (d) gamma-hydroxybutyrate (GHB)  
20 or flunitrazepan, also known as Rohypnol; OR (E) METHYLENEDIOXYMETH-  
21 AMPHETAMINE (MDMA), ALSO KNOWN AS ECSTASY;

22 (h) perform any other act which would not in itself materially benefit  
23 the actor but which is calculated to harm the person who is patronized  
24 materially with respect to his or her health, safety, or immigration  
25 status[.]; OR

26 6. KNOWINGLY ADVANCING PROSTITUTION OF A PERSON LESS THAN EIGHTEEN  
27 YEARS OLD.

28 S 22. Section 230.35 of the penal law, as amended by chapter 450 of  
29 the laws of 2005, is amended to read as follows:

30 S 230.35 Promoting or compelling prostitution; accomplice.

31 In a prosecution for promoting prostitution or compelling prostitu-  
32 tion, a person less than [seventeen] EIGHTEEN years [of age] OLD from  
33 whose prostitution activity another person is alleged to have advanced  
34 or attempted to advance or profited or attempted to profit shall not be  
35 deemed to be an accomplice.

36 S 23. The first undesignated paragraph of section 230.40 of the penal  
37 law is amended to read as follows:

38 A person is guilty of permitting prostitution when, having possession  
39 or control of premises OR VEHICLE which he OR SHE knows are being used  
40 for prostitution purposes OR FOR THE PURPOSE OF ADVANCING PROSTITUTION,  
41 he OR SHE fails to make reasonable effort to halt or abate such use.

42 S 24. Subdivision 2 of section 240.37 of the penal law, as added by  
43 chapter 344 of the laws of 1976, is amended, subdivision 3 is renumbered  
44 subdivision 4 and a new subdivision 3 is added to read as follows:

45 2. Any person who remains or wanders about in a public place and  
46 repeatedly beckons to, or repeatedly stops, or repeatedly attempts to  
47 stop, or repeatedly attempts to engage passers-by in conversation, or  
48 repeatedly stops or attempts to stop motor vehicles, or repeatedly  
49 interferes with the free passage of other persons, for the purpose of  
50 prostitution[, or of patronizing a prostitute as those terms are] AS  
51 THAT TERM IS defined in article two hundred thirty of [the penal law]  
52 THIS PART, shall be guilty of a violation and is guilty of a class B  
53 misdemeanor if such person has previously been convicted of a violation  
54 of this section or of [sections] SECTION 230.00 [or 230.05] of [the  
55 penal law] THIS PART.

1 3. ANY PERSON WHO REMAINS OR WANDERS ABOUT IN A PUBLIC PLACE AND  
2 REPEATEDLY BECKONS TO, OR REPEATEDLY STOPS, OR REPEATEDLY ATTEMPTS TO  
3 STOP, OR REPEATEDLY ATTEMPTS TO ENGAGE PASSERS-BY IN CONVERSATION, OR  
4 REPEATEDLY STOPS OR ATTEMPTS TO STOP MOTOR VEHICLES, OR REPEATEDLY  
5 INTERFERES WITH THE FREE PASSAGE OF OTHER PERSONS, FOR THE PURPOSE OF  
6 PATRONIZING A PERSON FOR PROSTITUTION AS DEFINED IN SECTION 230.02 OF  
7 THIS PART, SHALL BE GUILTY OF A VIOLATION AND IS GUILTY OF A CLASS B  
8 MISDEMEANOR IF SUCH PERSON HAS PREVIOUSLY BEEN CONVICTED OF A VIOLATION  
9 OF THIS SECTION OR OF SECTION 230.04, 230.05, 230.06 OR 230.08 OF THIS  
10 PART.

11 S 25. The section heading of section 170.15 of the criminal procedure  
12 law, as amended by chapter 661 of the laws of 1972, is amended and a new  
13 subdivision 5 is added to read as follows:

14 Removal of action from [one local] criminal court to another COURT.

15 5. (A) WHEN A DEFENDANT WHO IS LESS THAN EIGHTEEN YEARS OLD AND  
16 ALLEGED TO HAVE ENGAGED IN ANY ACT DEFINED IN SECTION 230.00 OR SUBDIVI-  
17 SION TWO OF SECTION 240.37 OF THE PENAL LAW IS BROUGHT FOR ARRAIGNMENT  
18 UPON AN INFORMATION, SIMPLIFIED INFORMATION OR MISDEMEANOR COMPLAINT  
19 CHARGING SUCH OFFENSE, THE COURT MUST ORDER THE ACTION REMOVED TO FAMILY  
20 COURT FOR FURTHER PROCEEDINGS IN ACCORDANCE WITH ARTICLE SEVEN OF THE  
21 FAMILY COURT ACT. THE ORDER OF REMOVAL MUST DIRECT THAT ALL OF THE  
22 PLEADINGS AND PROCEEDINGS IN THE ACTION, OR A CERTIFIED COPY OF THE  
23 SAME, BE TRANSFERRED TO THE DESIGNATED FAMILY COURT AND BE DELIVERED TO  
24 AND FILED WITH THE CLERK OF THAT COURT. THE PROCEDURES SET FORTH IN  
25 SECTIONS 725.10, 725.15 AND 725.20 OF THIS CHAPTER FOR TRANSFER AND  
26 SEALING OF RECORDS SHALL APPLY TO THIS PROVISION WHENEVER APPLICABLE.

27 (B) THE COURT MUST INFORM THE DEFENDANT OF THE AVAILABILITY OF  
28 SERVICES UNDER SECTION 447-B OF THE SOCIAL SERVICES LAW.

29 S 26. Subdivision 6 of section 380.50 of the criminal procedure law,  
30 as amended by chapter 320 of the laws of 2006, is amended to read as  
31 follows:

32 6. Regardless of whether the victim requests to make a statement with  
33 regard to the defendant's sentence, where the defendant is sentenced for  
34 a violent felony offense as defined in section 70.02 of the penal law or  
35 a felony defined in article one hundred twenty-five of such law or any  
36 of the following provisions of such law: sections 130.25, 130.30,  
37 130.40, 130.45, 255.25, 255.26, 255.27, article two hundred sixty-three,  
38 135.10, 135.25, 230.04, 230.05, 230.06, 230.08, 230.11, 230.12, 230.13,  
39 subdivision two of section 230.30 or 230.32, the prosecutor shall, with-  
40 in sixty days of the imposition of sentence, provide the victim with a  
41 form on which the victim may indicate a demand to be informed of any  
42 petition to change the name of such defendant. Such forms shall be  
43 maintained by such prosecutor. Upon receipt of a notice of a petition to  
44 change the name of any such defendant, pursuant to subdivision two of  
45 section sixty-two of the civil rights law, the prosecutor shall promptly  
46 notify the victim at the most current address or telephone number  
47 provided by such victim in the most reasonable and expedient possible  
48 manner of the time and place such petition will be presented to the  
49 court.

50 S 27. The opening paragraph of paragraph (i) of subdivision 1 of  
51 section 440.10 of the criminal procedure law, as added by chapter 332 of  
52 the laws of 2010, is amended to read as follows:

53 The judgment is a conviction where the arresting charge was under  
54 section 240.37 (loitering for the purpose of engaging in a prostitution  
55 offense, provided that the defendant was not alleged to be loitering for  
56 the purpose of patronizing a [prostitute] PERSON FOR PROSTITUTION or

1 promoting prostitution) or 230.00 (prostitution) of the penal law, and  
2 the defendant's participation in the offense was a result of having been  
3 a victim of sex trafficking under section 230.34 of the penal law or  
4 trafficking in persons under the Trafficking Victims Protection Act  
5 (United States Code, title 22, chapter 78); provided that

6 S 28. Paragraph (h) of subdivision 8 of section 700.05 of the crimi-  
7 nal procedure law, as amended by chapter 154 of the laws of 1990, is  
8 amended to read as follows:

9 (h) Promoting prostitution in the first degree, as defined in section  
10 230.32 of the penal law, promoting prostitution in the second degree, as  
11 defined by subdivision one of section 230.30 of the penal law, PROMOTING  
12 PROSTITUTION IN THE THIRD DEGREE, AS DEFINED IN SECTION 230.25 OF THE  
13 PENAL LAW;

14 S 29. Subdivision (a) of section 483-cc of the social services law, as  
15 added by chapter 74 of the laws of 2007, is amended to read as follows:

16 (a) As soon as practicable after a first encounter with a person who  
17 reasonably appears to a law enforcement agency [or a], district attor-  
18 ney's office, OR AN ESTABLISHED PROVIDER OF SOCIAL OR LEGAL SERVICES  
19 DESIGNATED BY THE OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE OR THE  
20 OFFICE FOR THE PREVENTION OF DOMESTIC VIOLENCE to be a human trafficking  
21 victim, that agency [or], office OR PROVIDER shall notify the office of  
22 temporary and disability assistance and the division of criminal justice  
23 services that such person may be eligible for services under this arti-  
24 cle.

25 S 30. Subdivision (p) of section 10.03 of the mental hygiene law, as  
26 added by chapter 7 of the laws of 2007, is amended to read as follows:

27 (p) "Sex offense" means an act or acts constituting: (1) any felony  
28 defined in article one hundred thirty of the penal law, including a  
29 sexually motivated felony; (2) patronizing a [prostitute] PERSON FOR  
30 PROSTITUTION in the first degree as defined in section 230.06 of the  
31 penal law, AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION IN THE FIRST  
32 DEGREE AS DEFINED IN SECTION 230.13 OF THE PENAL LAW, AGGRAVATED PATRON-  
33 IZING A MINOR FOR PROSTITUTION IN THE SECOND DEGREE AS DEFINED IN  
34 SECTION 230.12 OF THE PENAL LAW, AGGRAVATED PATRONIZING A MINOR FOR  
35 PROSTITUTION IN THE THIRD DEGREE AS DEFINED IN SECTION 230.11 OF THE  
36 PENAL LAW, incest in the second degree as defined in section 255.26 of  
37 the penal law, or incest in the first degree as defined in section  
38 255.27 of the penal law; (3) a felony attempt or conspiracy to commit  
39 any of the foregoing offenses set forth in this subdivision; or (4) a  
40 designated felony, as defined in subdivision (f) of this section, if  
41 sexually motivated and committed prior to the effective date of this  
42 article.

43 S 31. Subparagraph (i) of paragraph (a) of subdivision 2 of section  
44 168-a of the correction law, as amended by chapter 405 of the laws of  
45 2008, is amended to read as follows:

46 (i) a conviction of or a conviction for an attempt to commit any of  
47 the provisions of sections 120.70, 130.20, 130.25, 130.30, 130.40,  
48 130.45, 130.60, 230.34, 250.50, 255.25, 255.26 and 255.27 or article two  
49 hundred sixty-three of the penal law, or section 135.05, 135.10, 135.20  
50 or 135.25 of such law relating to kidnapping offenses, provided the  
51 victim of such kidnapping or related offense is less than seventeen  
52 years old and the offender is not the parent of the victim, or section  
53 230.04, [where the person patronized is in fact less than seventeen  
54 years of age,] 230.05 [or], 230.06, 230.08, [or] 230.11, 230.12, 230.13,  
55 subdivision two of section 230.30, [or] section 230.32 [or], 230.33, OR



1 230.34 of the penal law, OR SECTION 230.25 OF THE PENAL LAW WHERE THE  
2 PERSON PROSTITUTED IS IN FACT LESS THAN SEVENTEEN YEARS OLD, or

3 S 32. Paragraph (b) of subdivision 1 of section 168-d of the  
4 correction law, as amended by chapter 74 of the laws of 2007, is amended  
5 to read as follows:

6 (b) Where a defendant stands convicted of an offense defined in para-  
7 graph (b) of subdivision two of section one hundred sixty-eight-a of  
8 this article or where the defendant was convicted of patronizing a  
9 [prostitute] PERSON FOR PROSTITUTION in the third degree under section  
10 230.04 of the penal law OR OF PATRONIZING A PERSON FOR PROSTITUTION IN  
11 THE SECOND DEGREE UNDER SECTION 230.05 OF THE PENAL LAW, OR OF PATRONIZ-  
12 ING A PERSON FOR PROSTITUTION IN THE FIRST DEGREE UNDER SECTION 230.06  
13 OF THE PENAL LAW, OR OF PATRONIZING A PERSON FOR PROSTITUTION IN A  
14 SCHOOL ZONE UNDER SECTION 230.08 OF THE PENAL LAW, OR OF AGGRAVATED  
15 PATRONIZING A MINOR FOR PROSTITUTION IN THE FIRST DEGREE AS DEFINED IN  
16 SECTION 230.13 OF THE PENAL LAW, OR OF AGGRAVATED PATRONIZING A MINOR  
17 FOR PROSTITUTION IN THE SECOND DEGREE AS DEFINED IN SECTION 230.12 OF  
18 THE PENAL LAW, OR OF AGGRAVATED PATRONIZING A MINOR FOR PROSTITUTION IN  
19 THE THIRD DEGREE AS DEFINED IN SECTION 230.11 OF THE PENAL LAW, and the  
20 defendant controverts an allegation that the victim of such offense was  
21 less than eighteen years [of age or, in the case of a conviction under  
22 section 230.04 of the penal law, less than seventeen years of age] OLD,  
23 the court, without a jury, shall, prior to sentencing, conduct a hear-  
24 ing, and the people may prove by clear and convincing evidence that the  
25 victim was less than eighteen years [of age] OLD or less than seventeen  
26 years [of age] OLD, as applicable, by any evidence admissible under the  
27 rules applicable to a trial of the issue of guilt. The court in addition  
28 to such admissible evidence may also consider reliable hearsay evidence  
29 submitted by either party provided that it is relevant to the determi-  
30 nation of the age of the victim. Facts concerning the age of the victim  
31 proven at trial or ascertained at the time of entry of a plea of guilty  
32 shall be deemed established by clear and convincing evidence and shall  
33 not be relitigated. At the conclusion of the hearing, or if the defend-  
34 ant does not controvert an allegation that the victim of the offense was  
35 less than eighteen years [of age] OLD or less than seventeen years [of  
36 age] OLD, as applicable, the court must make a finding and enter an  
37 order setting forth the age of the victim. If the court finds that the  
38 victim of such offense was under eighteen years [of age] OLD or under  
39 seventeen years [of age] OLD, as applicable, the court shall certify the  
40 defendant as a sex offender, the provisions of paragraph (a) of this  
41 subdivision shall apply and the defendant shall register with the divi-  
42 sion in accordance with the provisions of this article.

43 S 33. Paragraph (c) of subdivision 4 of section 509-cc of the vehicle  
44 and traffic law, as amended by chapter 400 of the laws of 2011, is  
45 amended to read as follows:

46 (c) The offenses referred to in subparagraph (i) of paragraph (b) of  
47 subdivision one and subparagraph (i) of paragraph (c) of subdivision two  
48 of this section that result in disqualification for a period of five  
49 years shall include a conviction under sections 100.10, 105.13, 115.05,  
50 120.03, 120.04, 120.04-a, 120.05, 120.10, 120.25, 121.12, 121.13,  
51 125.40, 125.45, 130.20, 130.25, 130.52, 130.55, 135.10, 135.55, 140.17,  
52 140.25, 140.30, 145.12, 150.10, 150.15, 160.05, 160.10, 220.06, 220.09,  
53 220.16, 220.31, 220.34, 220.60, 220.65, 221.30, 221.50, 221.55, 230.00,  
54 230.04, 230.05, 230.06, 230.08, 230.11, 230.12, 230.13, 230.19, 230.20,  
55 235.05, 235.06, 235.07, 235.21, 240.06, 245.00, 260.10, subdivision two  
56 of section 260.20 and sections 260.25, 265.02, 265.03, 265.08, 265.09,

1 265.10, 265.12, 265.35 of the penal law or an attempt to commit any of  
2 the aforesaid offenses under section 110.00 of the penal law, or any  
3 similar offenses committed under a former section of the penal law, or  
4 any offenses committed under a former section of the penal law which  
5 would constitute violations of the aforesaid sections of the penal law,  
6 or any offenses committed outside this state which would constitute  
7 violations of the aforesaid sections of the penal law.

8 S 34. Section 2324-a of the public health law, as amended by chapter  
9 260 of the laws of 1978, is amended to read as follows:

10 S 2324-a. Presumptive evidence. For the purposes of this title, two  
11 or more convictions of any person or persons had, within a period of one  
12 year, for any of the offenses described in section 230.00, 230.04,  
13 230.05, 230.06, 230.08, 230.11, 230.12, 230.13, 230.20, 230.25 [or],  
14 230.30 OR 230.32 of the penal law arising out of conduct engaged in at  
15 the same real property consisting of a dwelling as that term is defined  
16 in subdivision four of section four of the multiple dwelling law shall  
17 be presumptive evidence of conduct constituting use of the premises for  
18 purposes of prostitution.

19 S 35. Subdivision 2 of section 715 of the real property actions and  
20 proceedings law, as added by chapter 494 of the laws of 1976, is amended  
21 to read as follows:

22 2. For purposes of this section, two or more convictions of any person  
23 or persons had, within a period of one year, for any of the offenses  
24 described in section 230.00, 230.04, 230.05, 230.06, 230.08, 230.11,  
25 230.12, 230.13, 230.20, 230.25, 230.30, 230.32 or 230.40 of the penal  
26 law arising out of conduct engaged in at the same real property consist-  
27 ing of a dwelling as that term is defined in subdivision four of section  
28 four of the multiple dwelling law shall be presumptive evidence of  
29 conduct constituting use of the premises for purposes of prostitution.

30 S 36. Subdivision 3 of section 231 of the real property law, as  
31 amended by chapter 203 of the laws of 1980, is amended to read as  
32 follows:

33 3. For the purposes of this section, two or more convictions of any  
34 person or persons had, within a period of one year, for any of the  
35 offenses described in section 230.00, 230.04, 230.05, 230.06, 230.08,  
36 230.11, 230.12, 230.13, 230.20, 230.25, 230.30, 230.32 or 230.40 of the  
37 penal law arising out of conduct engaged in at the same premises  
38 consisting of a dwelling as that term is defined in subdivision four of  
39 section four of the multiple dwelling law shall be presumptive evidence  
40 of unlawful use of such premises and of the owners knowledge of the  
41 same.

42 S 37. This act shall take effect on the ninetieth day after it shall  
43 have become a law.